

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

BOBBY JOE SMITH, II, )  
                          )  
                          )  
                         Plaintiff, )  
                          )  
                          )  
                         vs. )                         No. CIV-18-110-C  
                          )  
                          )  
LAWTON CORRECTIONAL )  
FACILITY, et al.,     )  
                          )  
                          )  
                         Defendants. )

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff filed the present action pursuant to 42 U.S.C. § 1983. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this matter was referred to United States Magistrate Judge Bernard M. Jones. Judge Jones entered a Report and Recommendation (“R&R”) on September 4, 2018, recommending judgment be entered as to certain claims and that others be dismissed without prejudice.

In the R&R, Judge Jones sets out the history of this case. In summary, Plaintiff filed his action alleging violation of his constitutional rights. According to Plaintiff, Defendants illegally confiscated three photographs on the basis that they were pornographic. By prior Orders, several of the originally named Defendants and claims were dismissed. The only Defendants remaining are Caldwell and Hulderman. The only surviving claims are a claim for violation of procedural due process rights, a challenge that the policy prohibiting sexually explicit materials violates the First Amendment, and a claim that prison official illegally tampered with Plaintiff’s incoming and outgoing mail.

Judge Jones’ analysis of the factual and legal grounds applicable to these claims is thorough and well-reasoned and no purpose would be served by repeating it here. Following

entry of the R&R, Plaintiff filed a Response to Motion to Dismiss (Dkt. No. 33), a Motion seeking to Introduce Evidence of Judicial Bias (Dkt. No. 34), and an Objection to the R&R (Dkt. No. 35). The Court has considered the arguments offered by Plaintiff in each of these documents and finds none offers any basis to reject Judge Jones' analysis. The Motion to Introduce Evidence offers a list of cases which are factually similar to the present case and in which the various Courts rejected claims similar to Plaintiff's regarding the alleged pornographic pictures. Plaintiff argues these cases offer a clear demonstration of judicial bias against pornography. Plaintiff also offers "evidence" that he watched a television program entitled "Doctors" which extolled the virtues of masturbation. Neither of these items of "evidence" are in fact evidence sufficient to demonstrate that Judge Jones' analysis was erroneous or incomplete. Further, neither is sufficient to demonstrate that Defendants are not entitled to summary judgment. As for the Objection to the R&R, it fails to offer any argument or evidence that was not considered and rejected by Judge Jones in the R&R.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 32). All pending motions are DENIED. A separate judgment will issue.

IT IS SO ORDERED this 25th day of September 2018.



ROBIN J. CAUTHRON  
United States District Judge